

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of

Amendment of Part 90 of the Commission's
Rules to Provide for the Use of the
220-222 MHz Band by the Private Land
Mobile Radio Service

Implementation of Sections 3(n) and 332 of
the Communications Act

Regulatory Treatment of Mobile Services

Implementation of Section 309(j) of the
Communications Act -- Competitive Bidding,
220-222 MHz

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) PR Docket No. 89-552
) RM-8506
)

) GN Docket No. 93-252
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) PP Docket No. 93-253
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS OF GLOBAL CELLULAR COMMUNICATIONS, INC.

Global Cellular Communications, Inc. ("Global"), by its attorneys and pursuant to §1.415 of the Commission's Rules, hereby submits comments respecting the Notice of Proposed Rule Making portion of the Second Memorandum Opinion and Order and Third Notice of Proposed Rulemaking, (PR. Docket No.89-552, GN Docket No. 93-252, PP Docket No.93-253), FCC 95-312, released August 28, 1995 in the above-referenced dockets (the "3d NPRM").

Global currently holds a license for a nationwide, commercial 220-222 MHz system. As a 220-222 MHz licensee, Global has an interest in the outcome of this proceeding. Global generally supports the Commission's proposals presented in the 3d NPRM, especially those proposals which provide for the elimination of channel use restrictions, such as elimination of the trunking-only, data-only and paging-only allocations, and elimination of the 5 kHz narrowband restrictions. However, Global opposes the Commission's auction proposal for the

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33 pending non-commercial nationwide applications, which proposal is to return the applications without prejudice to the applicants and then assign the 30 channels through the competitive bidding process.

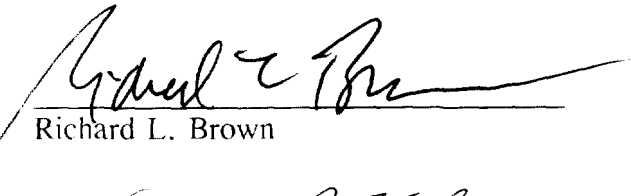
The Commission's auction proposal would effectively cause the retroactive application of new rules to these applicants. The rights of these incumbent applicants should be protected and their applications should be processed under the same rules that were in effect when the applications were filed. Under those rules, these *non-commercial* nationwide channels would not be subject to assignment by competitive bidding. See Implementation of Section 309(j) of the Communications Act - Competitive Bidding, PP Docket No. 93-253, Second Report and Order, 9 FCC Rcd 2348, 2353 ¶30 (1994). Indeed, these nationwide channels were specifically designated as non-commercial, and were intended for use by licensees to meet their internal communications needs, not for the provision of for-profit, subscriber-based service. See Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Services, PR Docket No. 89-552, Report and Order, 6 FCC Rcd 2356, 2360 ¶29 (1991) ("220 MHz Report and Order"). As such, these channels are not subject to competitive bidding under the Communications Act.

In the event the Commission decides to adopt its alternative proposal to return the applications and assign the channels by auction, Global advocates auctioning the channels as non-commercial channels and *not* redesignating them as commercial channels. The Commission's conclusion, 3d NPRM at ¶34, that it is no longer necessary to require a separate non-commercial allocation in the 220-222 MHz service is proven wrong by the very fact that there are 33 pending applications for the separately allocated non-commercial nationwide channels. Contrary

to the bald statements otherwise in the 3d NPRM, the Commission allocated this spectrum for non-commercial operations based on perceived demand for non-commercial use after lobbying by parties desiring non-commercial use. Since each of the pending applicants spent thousands of dollars in filing fees just for a lottery chance, patently demand for such non-commercial spectrum does exist. Finally, current 220 MHz commercial licensees that applied for commercial spectrum have designed their business plans based on the regulatory scheme (and the potential competitors) in place at the time they submitted their applications. To now eliminate the separate allocation of non-commercial nationwide channels would be extremely prejudicial to all commercial licensees.

Respectfully submitted,

GLOBAL CELLULAR COMMUNICATIONS, INC.

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September 27, 1995

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CERTIFICATE OF SERVICE

I, JacLyn Freeman, a secretary in the law offices of Brown Nietert & Kaufman, Chartered, hereby certify that I have, on this 27th day of September, 1995, caused to have hand delivered a copy of the foregoing Comments to the following:

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